

Remarks

I. Status of the Application and Summary of the Office Action

A. General

This paper is filed in response to the Office Action mailed on August 11, 2004 and the telephonic interview on November 4, 2004. Claims 1-19 are pending in the present application. Independent claims 1 and 10 have been amended per this Amendment. Applicant would like to thank Examiner Luong for the telephonic interview on November 4, 2004.

On page 2 of the Office Action, the Examiner rejected claims 1-19 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent 3,884,092 to Raudebaugh ("Raudebaugh"). Applicant has reviewed the reference and submits that the reference does not anticipate the pending claims as discussed in the telephonic interview and as set forth below.

The application and claims have been amended to overcome the Examiner's basis for rejection for the pending claims. Reconsideration and allowance of the claims are respectfully requested.

B. Interview Summary

On November 4, 2004, the undersigned conducted a telephonic interview with the Examiner to discuss the Examiner's bases for rejecting the pending claims in the Office Action mailed August 11, 2004. In that Interview, the undersigned and the Examiner discussed Raudebaugh on which the Examiner based his anticipation rejection and its teachings. Although agreement was not reached in the Interview, the Amendment to the claims as set forth herein reflects the distinguishing features of the present claims when compared to Raudebaugh.

II. U.S. Patent No. 3,884,092 Does Not Anticipate Claims 1-19

As amended, claims 1 and 10 state:

1. A fatigue relieving/preventing apparatus associated with a vehicular control means comprising:
 - a first section that connects to a predetermined peripheral portion of the vehicular control means; and
 - a deformable section that connects to, and extends from, the first section at the predetermined peripheral portion of the vehicular control*

means, the deformable section for supporting at least a portion of a vehicular operator's body, with the deformable section being deformable by the vehicular operator so that the deformable section is substantially out of interference with the vehicular operator's ability to operate the vehicular control means.

10. (Currently Amended) A fatigue relieving/preventing apparatus associated with a vehicular control means comprising:

at least two discrete first sections that each connect to a predetermined peripheral portion of the vehicular control means; and
a discrete deformable second section that connects to, and extends from, each first section at the predetermined peripheral portion of the vehicular control mean, the discrete deformable second section for supporting at least a portion of a vehicular operator's body, with each deformable second section being deformable by the vehicular operator so that the deformable section is substantially out of interference with the vehicular operator's ability to operate the vehicular control means.

For the Examiner's convenience, Applicant has printed in italics at least the "deformable" element of claims 1 and 10 that is not taught, suggested or obvious in view of Raudebaugh. Noting this, Raudebaugh does not anticipate claims 1 or 10 under 35 U.S.C. § 102(b) because it fails to meet the requirement for a reference to anticipate which is that the reference must include each and every element of claim 1 or 10 in the same way. *Brown v. 3M*, 265 F.3d 1349 (Fed. Cir. 2001) ("To anticipate, every limitation of the claimed invention must be found in a single prior art reference, arranged as in the claim"); *Kloster Speedsteel AB v. Crucible, Inc.*, 793 F.2d 1565, 1571 (Fed. Cir. 1986) ("absence from the reference of any claimed element negates anticipation").

The Examiner cites the cushioning structure defined by 15, 19, 25, 28, 32 in Raudebaugh as the portion that allegedly teaches the deformable element of claims 1 and 10. The Examiner then cites the stiffening structure defined by 17a, 21, 22, 30 in Raudebaugh as the portion that allegedly teaches a first member that connects to the vehicular control means (*e.g.*, steering wheel). (See Raudebaugh, Col. 1, lines 55-67 and Col. 2, lines 28-33.) Applicant submits that these elements of Raudebaugh cited by the Examiner do not anticipate or render obvious the invention of claims 1 and 10.

The section of Raudebaugh that the Examiner has relied on for showing the first section of claims 1 and 10 does not connect to the steering wheel such that the cushioning structure connected to it extends outward toward the driver near the periphery of the

steering wheel. It is noted in Raudebaugh that the stiffening structure that the Examiner equates to the first section of claims 1 and 10 is disposed as a chord across the face of the steering wheel with its ends connected at two locations at the circumference of the steering wheel. The wide, thick cushioning element in Raudebaugh extends only across a portion of the center area of the stiffening structure but not where the stiffening structure attaches to the steering wheel. (See Figures 1, 2, 3, 4, 5, 6, 8, 9, 10, and 11 of Raudebaugh.) According to the various embodiments of Raudebaugh, the cushioning element is never disposed at locations at the periphery of the steering wheel toward the driver where they could impede the driver's use of the steering wheel as are the embodiments of the present invention as set forth in claims 1 and 10. (See the Figures of the present invention.) This is a feature of the present invention that distinguishes claims 1 and 10 from Raudebaugh and overcomes the anticipation rejection advanced by the Examiner. Moreover, given the Raudebaugh embodiments and the fact that they are disposed across the steering wheel like a chord, Raudebaugh also would not render the claims 1 and 10 obvious under 35 U.S.C. § 103.

Another ground that demonstrates that Raudebaugh does not anticipate claims 1 and 10 of the present application is that the deformable elements of these claims are disposed from the steering wheel near the periphery, and can be deformed by the driver out of the way, as shown in Figure 4 of the present application, so that it will not impede the driver's ability to operate the steering wheel. The wide, thick cushioning element 15 in Raudebaugh does not extend outward from the periphery of the steering wheel so it is not positioned as the deformable element of the present invention. However, if it did, it would not be deformable so that it would not impede the driver ability to grasp the steering wheel because of its wide, thick structure as described in Raudebaugh. This is another very strong basis that supports Applicant's position that the Raudebaugh does not anticipate claims 1 and 10. Further, the invention of claims 1 and 10 would not be obvious in light of Raudebaugh given that the wide, thick cushioning element 15 does not extend outward toward the driver near the periphery of the steering wheel, and if it did, it would not be deformable so that it would not impede grasping the steering wheel given the description of the element in Raudebaugh.

Claims 2-9 and 11-19 depend from claims 1 and 10, respectively. Each of the dependent claims adds additional features to claims 1 and 10 from which it ultimately depends. As such, claims 2-9 and 11-19 are not anticipated or rendered obvious for the same reasons as claims 1 and 10 from which each ultimately depends.

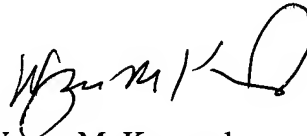
Applicant has set forth bases that clearly demonstrate that claims 1-19 are not anticipated or rendered obvious by Raudebaugh. Therefore, Applicant requests that the Examiner withdraw the anticipation rejection that has been applied to claims 1-19 and not raise an obvious rejection against these claims based on Raudebaugh.

Conclusion

The present application is new, non-obvious, and useful. Applicant has traversed each of the Examiner's bases for rejecting the pending 1-19 claims, and Applicant submit that the application is in condition for allowance and respectfully requests that it issue in due course.

Please charge any additional fees that may be required, or credit any overpayments that may be due, to Deposit Account No. 08-0219.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Wayne M. Kennard', written over a horizontal line.

Wayne M. Kennard
Registration No: 30,271
Attorney for Applicant

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Wilmer Cutler Pickering Hale and Dorr LLP
60 State Street
Boston, Massachusetts 02109
Telephone: (617) 526-6183
Facsimile: (617) 526-5000